

Dauphin County District Attorney's Office
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COMMONWEALTH OF PENNSYLVANIA	:	IN THE COURT OF COMMON PLEAS
	:	DAUPHIN COUNTY, PENNSYLVANIA
	:	
vs.	:	NO. CP-22-CR-0525-2015
	:	
	:	CHARGES: CONFLICT OF INTEREST (5);
	:	BRIBERY; STATEMENT OF FIN.
VANESSA LOWERY BROWN	:	INTERESTS

COMMONWEALTH'S SENTENCING MEMORANDUM

TO THE HONORABLE SCOTT ARTHUR EVANS, JUDGE OF SAID COURT:

AND NOW, comes Francis T. Chardo, District Attorney of Dauphin County, by Michael A. Sprow, First Assistant District Attorney, who files this Sentencing Memorandum in the above-captioned matter.

CHARGES AND SENTENCING GUIDELINES

On October 31, 2018, after a week and a half of trial, a jury found the defendant guilty of six felonies and one misdemeanor: Counts 1-5 - - Conflict of Interest, 65 Pa.C.S. §1103(c) (ungraded felonies); Count 6 - - Bribery, 18 Pa.C.S. §4701(a)(1) (F-3); and Count 7 - - Statement of Financial Interests, 65 Pa.C.S. §1105 (ungraded misdemeanor). The defendant has a prior record score of zero. The felonies each carry an offense gravity score (OGS) of 5, while the misdemeanor carries an OGS

of 1. The standard range of the sentencing guidelines for each of the first six counts is RS-9. The standard range of the sentencing guidelines for count 7 is RS-RS.

APPLICABLE LAW

The general principle regarding sentencing in Pennsylvania is that “the sentence imposed should call for confinement that is consistent with the protection of the public, the gravity of the offense as it relates to the impact on the life of the victim and on the community, and the rehabilitative needs of the defendant.” 42 Pa.C.S. §9721(b). The court shall impose a sentence of total confinement where a lesser sentence would depreciate the seriousness of the crime of the defendant. 42 Pa.C.S. §9725(3).

ANALYSIS

The defendant was elected to be a state representative in the Pennsylvania General Assembly in 2009. She has been in that position continuously from 2009 to the present day. As with every elected official, the public placed its trust in the defendant to serve with integrity, and to promote public confidence in the institutions of government. During calendar year 2011, the defendant accepted five separate cash bribes, totaling \$4,000.00. Those bribes consisted of money taken in connection with her official duties as a state representative, and therefore reflect a grievous violation of the public trust. Instead of promoting public confidence in the institutions of government, the defendant has contributed to its erosion.

The defendant deserves no consideration for acceptance of responsibility. Unlike the five other public officials who were caught during the same investigation, who

all pled guilty or *nolo contendere*, this defendant has failed to accept responsibility for her actions. Even after she admitted to the grand jury that she accepted bribes, the defendant embarked on years of pretrial litigation and a lengthy jury trial to try to avoid being held accountable. Moreover, despite the fact that the jury rejected her defense of entrapment at trial, the defendant continues to make excuses and blame others for her criminal behavior (See Presentence Investigation, p. 2).

Furthermore, the defendant has demonstrated a reckless disregard for the expenditure of taxpayer dollars. The aforementioned pretrial and trial litigation exhausted a tremendous amount of prosecutorial and judicial resources, including the time and efforts of numerous prosecutors, the supervising judge of the grand jury, judges of the Superior Court, and this Honorable Court. Despite the knowledge that her conviction for bribery constitutionally bars her from serving as an elected state representative, the defendant has failed to resign her seat in the House of Representatives and continues to draw a public salary. She has drawn a public salary for the past seven years since these crimes were committed, and for the past three years since the charges were filed. By keeping her name on the ballot for reelection this year, the defendant has created a situation where the election results must be voided and a costly special election will have to be organized.

The defendant's circumstances warrant a sentence that involves at least some period of incarceration. The vast majority of Pennsylvania's elected officials who were convicted on charges of public corruption over the years have been sent to prison, including but not limited to the following:

- (a) Ernie Preate, 1995 – sentenced to 14 months in federal prison for mail fraud committed while an elected District Attorney;
- (b) Frank Serafini, 1997 – sentenced to 5 months in prison for committing perjury while an elected state representative;
- (c) Frank Gigliotti, 2000 – sentenced to 46 months in federal prison for extortion, mail fraud, and tax evasion while an elected state representative;
- (d) Tracy Seyfert, 2000 – sentenced to 6 months in prison for conspiracy to influence a witness and stealing federal property while an elected state representative;
- (e) Jeff Habay, 2006 – sentenced to 6 to 12 months in prison for violating the Conflict of Interest statute as an elected state representative;
- (f) Vincent Fumo, 2009 – sentenced to 55 months in federal prison for conspiracy and fraud as an elected state senator;
- (g) Mike Veon, 2010 – sentenced to 6 to 14 years in state prison for violating the Conflict of Interest statute, and conspiracy as an elected state representative;
- (h) Brett Feese, 2011 – sentenced to 4 to 12 years for violating the Conflict of Interest statute, theft, and conspiracy as an elected state representative;

- (i) John Perzel, 2011 – sentenced to 2 ½ to 5 years in state prison for violating the Conflict of Interest statute, and conspiracy as an elected state representative;
- (j) Robert Mellow, 2012 – sentenced to 16 months in federal prison for using public employees for fundraising as an elected state representative;
- (k) Bill DeWeese, 2012 – sentenced to 30 to 60 months for violating the Conflict of Interest statute, theft, and conspiracy as an elected state representative;
- (l) Stephen Stetler, 2012 – sentenced to 1 ½ to 5 years for violating the Conflict of Interest statute, theft, and conspiracy as an elected state representative;
- (m) Jane Orie, 2012 – sentenced to 2 ½ to 10 years for violating the Conflict of Interest statute as an elected state senator;
- (n) Kathleen Kane, 2016 – sentenced to 10 to 23 months for two counts of perjury, obstruction of justice, and conspiracy as the elected Attorney General.

Like Vanessa Brown, none of the above defendants had a criminal history. However, the common thread among all of these public officials is that they abused their position of power for personal gain. They ignored their responsibilities to the public and their oaths to uphold the law in favor of helping themselves. This defendant is no

different. She deserves the same nature of punishment as the corrupt politicians before her.

RECOMMENDATION

Based on the foregoing, the Commonwealth respectfully requests that the Court impose an appropriate period of incarceration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael A. Sprow", with a long horizontal flourish extending to the right.

Michael A. Sprow
First Assistant District Attorney
Supreme Court No. 88573

VERIFICATION

I verify that the facts contained in the above pleading are true and correct to the best of my knowledge, information and belief. I understand that the facts herein are verified subject to the penalties for unsworn falsification to authorities under Crimes Code, Section 4904 (18 Pa.C.S. § 4904).

A handwritten signature in black ink, appearing to read "Michael A. Sprow", written over a horizontal line.

Michael A. Sprow
First Assistant District Attorney

CERTIFICATE OF SERVICE

In re: Commonwealth v. Vanessa Lowery Brown
No(s). CP-22-CR-525-2015

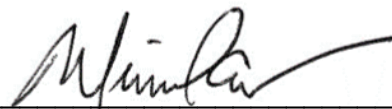
I hereby certify that I am this day serving the foregoing document upon the person(s) and in the manner indicated below:

Service by hand-delivered mail addressed as follows:

Court Administrator
Dauphin County Courthouse
101 Market Street
Harrisburg, PA 17101

Service by first class mail addressed as follows:

Patrick Casey, Esq.
Myers, Brier & Kelly, LLP
425 Spruce Street, Suite 200
Scranton, PA 18503



Michael A. Sprow / bah
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Dated: November 28, 2018